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10 *SOILWORKS, LLC, an Arizona corporation*

11 **UNITED STATES DISTRICT COURT**
12 **IN AND FOR THE DISTRICT OF ARIZONA**

13 SOILWORKS, LLC, an Arizona
14 corporation,

15 Plaintiff / Counterdefendant /
16 Counterclaimant,

17 v.

18 MIDWEST INDUSTRIAL SUPPLY, INC.,
19 an Ohio corporation authorized to do
20 business in Arizona,

21 Defendant / Counterclaimant /
22 Counterdefendant.

NO.: 2:06-CV-2141-DGC

**SOILWORKS, LLC'S RESPONSES TO
MIDWEST INDUSTRIAL SUPPLY,
INC.'S FIRST REQUEST FOR
PRODUCTION OF DOCUMENTS
AND THINGS**

23 Pursuant to Rules 33 and 34 of the Federal Rules of Civil Procedure, Plaintiff,
24 Soilworks, LLC ("**Soilworks**") hereby responds to Defendant Midwest Industrial Supply,
25 Inc.'s ("**Midwest**") First Request for Production of Documents and Things, dated May 22,
26 2007.

27 **GENERAL STATEMENTS**

28 1. Soilworks incorporates by reference each and every general objection set forth
below into each and every specific response. From time to time a specific response may
repeat a general objection for emphasis or some other reason. The failure to include any
general objection in any specific response shall not be interpreted as a waiver of any general

1 that would provide ecological, environmental or human health information about the
2 product.

3 **RESPONSE: RESPONSE: Objection.** This request is overly intrusive, broad,
4 unduly burdensome and not reasonably calculated to lead to the discovery of
5 admissible evidence. Furthermore, Durasoil® is the only Soilwork's product about
6 which an infringement argument has been made, and Soilworks will only provide the
7 requested information about Durasoil®. Without waiving the foregoing objections,
8 once the Court has entered a Protective Order which is mutually agreeable to all
9 parties, Soilworks will make responsive documents available. Without waiving the
10 foregoing objections, see <http://www.durasoil.com/> and Soilwork's related websites.

11 19. All Prior Art that Plaintiff is aware of relating to the subject matter and/or any
12 of the claims of the Midwest Patents.

13 **RESPONSE: Objection.** This interrogatory is premature. This case is still in its
14 early stages, and until Midwest identifies its claim construction / interpretation position
15 and provides a claims chart regarding its patent(s), Soilworks cannot fully respond to
16 this request. Without waiving the foregoing objections, once the Court has entered a
17 Protective Order which is mutually agreeable to all parties, Soilworks will make
18 responsive documents available.

19 20. Any legal advice concerning any patent owned by Defendant, including
20 anything communicated to any attorney, anything used, considered, reviewed or rejected by
21 any attorney, and any communication from any attorney, including all drafts.

22 **RESPONSE: Objection.** The documents requested are subject to the attorney
23 client and/or work product privileges. Without waiving the foregoing objections, and
24 to the extent responsive documents exist, Soilworks will produce a privilege log.

25 21. Annual, quarterly, and monthly documents, things, and electronically stored
26 information from which the following may be determined for all of Plaintiff's Products: the
27 amount of product sold, sales figures, gross receipts, production costs, manufacturing costs,
28 material costs, and/or labor costs.

1 **RESPONSE: Objection.** This request is overly intrusive, broad, unduly
2 burdensome and not reasonably calculated to lead to the discovery of admissible
3 evidence. Furthermore, this request is solely for the purposes of harassment.
4 Furthermore, Durasoil® is the only Soilwork's product about which an infringement
5 argument has been made, and Soilworks will only provide the requested information
6 about Durasoil®. Without waiving the foregoing objections, once the Court has
7 entered a Protective Order which is mutually agreeable to all parties, Soilworks will
8 make responsive documents available.

9 22. All quarterly and annual income statements, balance sheets, and cash flow
10 statements prepared in the normal course of business for Plaintiff and each of Plaintiff's
11 division, business unit, affiliate, and subsidiary responsible for the design, procurement,
12 manufacture, sale, and/or lease of all of Plaintiff's Products.

13 **RESPONSE: Objection.** This request is overly intrusive, broad, unduly
14 burdensome and not reasonably calculated to lead to the discovery of admissible
15 evidence. Furthermore, this request is made solely for the purposes of harassment.
16 Furthermore, Durasoil® is the only Soilwork's product about which an infringement
17 argument has been made, and Soilworks will only provide the requested information
18 about Durasoil®. Without waiving the foregoing objections, once the Court has
19 entered a Protective Order which is mutually agreeable to all parties, Soilworks will
20 make responsive documents available.

21 23. All documents, things, and electronically stored information that refers or
22 relates to pricing of all Plaintiff's Products, including without limitation, price quotes, price
23 announcements, and actual prices paid by customers.

24 **RESPONSE: Objection.** This request is overly intrusive, broad, unduly
25 burdensome and not reasonably calculated to lead to the discovery of admissible
26 evidence. Furthermore, this request is solely for the purposes of harassment.
27 Furthermore, Durasoil® is the only Soilwork's product about which an infringement
28 argument has been made, and Soilworks will only provide the requested information

1 waiving the foregoing objections, once the Court has entered a Protective Order which
2 is mutually agreeable to all parties, Soilworks will make responsive documents
3 available.

4 30. All documents, things, and electronically stored information, including
5 invoices, between Plaintiff and any internet entity Plaintiff uses to advertise Plaintiff's
6 Products, including, but not limited to Google and Yahoo!

7 **RESPONSE: Objection. Vague, overbroad and not reasonably calculated to the**
8 **discovery of admissible evidence.**

9 31. All documents, things, and electronically stored information regarding
10 impressions, purchasing of keywords, Keywords and "costs per click" from all search
11 engines Plaintiff advertises upon related to Plaintiff's Products.

12 **RESPONSE: Objection. Vague, overbroad and not reasonably calculated to the**
13 **discovery of admissible evidence.**

14 32. Produce a representative sampling of the history of Plaintiff's websites
15 advertising Plaintiff's Products.

16 **RESPONSE: Objection. Vague, overbroad and not reasonably calculated to the**
17 **discovery of admissible evidence.**

18 33. All organizational charts of Plaintiff from 2002 to the present time.

19 **RESPONSE: Objection. Vague, overbroad and not reasonably calculated to the**
20 **discovery of admissible evidence. Without waiving the foregoing objections, Soilworks**
21 **responds that it does not possess the requested documents.**

22 Dated this 23rd day of July, 2007.
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/s/
Amy S. Fletcher